

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

EDWARD HENRY,

Plaintiff,

-vs-

NO: CIV-08-483-JCH/ACT

THE HERTZ CORPORATION, et al.,

Defendants.

DEPOSITION OF EDWARD HENRY

February 24, 2009
9:00 a.m.
One Civic Plaza, N.W., Room 403
Albuquerque, New Mexico

PURSUANT TO THE FEDERAL RULES OF CIVIL
PROCEDURE, this deposition was:

TAKEN BY: KATHRYN LEVY
ATTORNEY FOR DEFENDANTS

REPORTED BY: Jan Gibson, CCR, RPR, CRR
Paul Baca Court Reporters
500 Fourth Street, NW - Suite 105
Albuquerque, New Mexico 87102

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(Note: In session at 9:00.)

EDWARD HENRY,

after having been first duly sworn under oath,
was questioned and testified as follows:

EXAMINATION

BY MS. LEVY

Q. Would you state your full name for the
record, please?

A. Edward Dwayne Henry.

Q. Mr. Henry, have you ever had your
deposition taken before?

A. Yes.

Q. In what circumstance have you had it and
how many times?

A. Once. The death of my son.

Q. And the name of your son?

A. Maurice DeVon Henry.

Q. When was your deposition taken?

A. 1998 or so. I'm not sure. Maybe '99.

Q. Did you have a wrongful death suit?

A. Yes.

Q. Where was that filed?

A. In Florida.

Q. Was that matter resolved through trial or
through settlement?

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1 Q. How long were you in Albuquerque in
2 February of 2006?
3 A. One week.
4 Q. Were there other employees from ABB with
5 you?
6 A. No.
7 Q. So when you say we did an installation,
8 what did you mean by we?
9 A. Myself and the employees of the wastewater
10 department.
11 Q. Was it the VMS system we talked about?
12 A. Yes.
13 Q. So you do the installation and come back a
14 couple months later for training?
15 A. In this case, yes.
16 Q. Is that different from what you normally
17 do?
18 A. It depends upon the customer, what they
19 want.
20 Q. In this case that's what the City of
21 Albuquerque requested?
22 A. Yes.
23 Q. When you were going to come back in the
24 summer of 2006, what were you going to do?
25 A. They were getting some additional

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1 equipment.
2 Q. You mentioned earlier that your company
3 only permits you to rent from Hertz; is that
4 correct?
5 A. Yes.
6 Q. I know I am veering off from what we were
7 talking about before so bear with me. Your company
8 obviously has a contract then with Hertz?
9 A. Yes.
10 Q. When you travel now, what do you do for a
11 rental car?
12 A. I rent from Hertz.
13 Q. Did you ever stop renting from Hertz?
14 A. No.
15 Q. Does your company always authorize you to
16 get a rental car when you are on the road?
17 A. Yes.
18 Q. So now going back to where we were on May
19 21, 2006, you said you arrived in Albuquerque at
20 approximately 9:00 o'clock. Would you tell me what
21 happened when you arrived?
22 A. I picked up my bags, my rental car, and I
23 went to my hotel.
24 Q. Which hotel were you staying at?
25 A. Residence Inn.

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1 MR. MONTOYA: A little bit louder.
2 A. I'm sorry, Residence Inn..
3 Q. Is that a Marriott?
4 A. That's Marriott property.
5 Q. Do you remember approximately where it was
6 located?
7 A. No, I don't.
8 Q. When you went to the Hertz location did
9 you already have everything set up so you were just
10 picking up the car or did you have to complete
11 paperwork?
12 A. Everything was already set up.
13 Q. Did you specifically request a certain
14 type of vehicle? I know in this case you rented a
15 Ford four-door Charger?
16 A. No, I did not.
17 Q. Is it your custom or habit to request a
18 specific size of car or type of vehicle?
19 A. Size of car, yes.
20 Q. What size?
21 A. Usually full size.
22 Q. So you went to your hotel. Approximately
23 what time did you check in?
24 A. Approximately 9:30.
25 Q. What did you do then?

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1 A. I unpacked. I went down to the front desk
2 and asked where was the nearest Wal-Mart.
3 Q. All right.
4 A. I went to Wal-Mart.
5 Q. Do you remember where the Wal-Mart was
6 located?
7 A. No, I don't.
8 Q. Why did you go to Wal-Mart?
9 A. To get toiletry items, food.
10 Q. This had been a planned trip, correct?
11 A. Yes.
12 Q. How long were you at the Wal-Mart?
13 A. I don't know. Approximately 30 minutes.
14 Q. What happened when you left the Wal-Mart?
15 A. I was driving down the street and I saw a
16 cop following me.
17 Q. Was there anything you noticed about the
18 police vehicle when you first noticed it? Were
19 lights on? Any indication --
20 A. No lights on.
21 Q. How did you first become aware of the
22 vehicle? What brought it to your attention?
23 A. He was right behind me.
24 Q. Do you have any idea how long he had been
25 behind you in terms of after you left Wal-Mart?

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1 A. No, I don't.
 2 Q. Did you just notice it in your rear-view
 3 mirror?
 4 A. Yes, I did.
 5 Q. And he was in the lane directly behind
 6 you; is that correct?
 7 A. Yes.
 8 Q. Then what happened?
 9 A. He dropped back. He stopped following me.
 10 Q. You use the term following. Did you think
 11 he was purposefully following you when you first
 12 noticed the vehicle?
 13 A. Yes.
 14 Q. What led you to that conclusion?
 15 A. He was right on my tail.
 16 Q. How close was he?
 17 A. Less than ten feet.
 18 Q. What was traffic like that night?
 19 A. Moderate to light.
 20 Q. So when you first noticed him, it was in
 21 your rear-view mirror. He was less than ten feet
 22 behind you?
 23 A. Yes.
 24 Q. How long did he continue to follow you
 25 that closely?

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1 A. Maybe a minute.
 2 Q. Did that cause you any concern?
 3 A. Yes. I thought he was going to pull me
 4 over.
 5 Q. Did you have any sense of why he might do
 6 that or why you were surmising he might do that?
 7 A. Because I was driving.
 8 Q. Were you driving too fast?
 9 A. No.
 10 Q. Then you said he fell back; is that
 11 correct?
 12 A. Yes.
 13 Q. How far back did he fall, if you can
 14 estimate it in car lengths?
 15 A. Maybe ten.
 16 Q. Were you monitoring him in your rear-view
 17 mirror?
 18 A. No.
 19 Q. What made you -- well, were you continuing
 20 to check on him periodically to see if he was --
 21 A. I was checking traffic as I was driving.
 22 Q. Once you fell back the approximately ten
 23 car lengths, did that cause you any concern?
 24 A. No.
 25 Q. What happened then?

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1 A. I looked in my rear-view mirror and there
 2 were at least three additional patrol cars. He
 3 turned his lights on. I was in the center lane and
 4 I pulled to the right to the curb.
 5 Q. When you say you noticed three additional
 6 police vehicles, were they all Albuquerque Police
 7 Department?
 8 A. Yes.
 9 Q. Did you know that at the time?
 10 A. No.
 11 Q. Did you know that the vehicle that was
 12 behind you originally was an Albuquerque Police
 13 Department vehicle?
 14 A. No.
 15 Q. You just understood it was law
 16 enforcement?
 17 A. That's correct.
 18 Q. When you noted the three additional -- so
 19 we are looking at four cars now; is that correct?
 20 A. Possibly three. I do not have an accurate
 21 count at that point in time.
 22 Q. Was it three or four then? In other
 23 words, did it include the original vehicle?
 24 MR. MONTOYA: Objection, asked and
 25 answered. You may answer again.

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1 A. I'm sorry, could you repeat that?
 2 Q. Yes, that was poorly phrased. As I
 3 understood it, you said that you looked back and you
 4 saw three additional police cars. Does that make a
 5 total of four cars at this point?
 6 MR. MONTOYA: Objection, asked and
 7 answered. Objection, misrepresents testimony. You
 8 may answer.
 9 A. I said approximately three, and I would
 10 give a total of approximately four.
 11 Q. That's what I am asking.
 12 A. Yes.
 13 Q. What lanes were the vehicles in when you
 14 first noticed them?
 15 A. One was directly behind me.
 16 Q. All right.
 17 A. I know one was in the lane to the right
 18 and one was in the lane to the left.
 19 Q. Was this a three-lane roadway?
 20 A. Yes.
 21 Q. When you noticed the -- I guess there
 22 would be one more, wouldn't there? If there were
 23 four total?
 24 A. There was at least four, yes.
 25 Q. Where was that one?

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1 A. I don't know. It was behind one of the
2 other cars.

3 Q. You were able to see this in your
4 rear-view mirror?

5 A. I could see the lights, yes.

6 Q.. Did all of the vehicles have lights on?

7 A. Yes.

8 Q. Did they have their sirens on?

9 A. Not to my recollection.

10 Q. So there were four police cars all with
11 their lights on?

12 A. At least four.

13 Q. At least four. When you say lights, can
14 you describe where the lights were on the vehicles?

15 A. They were on top.

16 Q. On all of them?

17 A. I don't know if they were on top on all of
18 them.

19 Q. What did you do in response to that? You
20 said you pulled over?

21 A. I pulled over. Initially into the right
22 lane and then into the curb.

23 Q. What happened then?

24 A. I stopped and I waited.

25 Q. All right.

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1 A. Nobody came forward so I got out of the
2 car.

3 Q. How long did you wait?

4 A. Approximately five minutes.

5 Q. Was any contact made with you at all from
6 those officers in the five minutes?

7 A. None.

8 Q. No PA announcements, anything of that
9 nature?

10 A. Nothing.

11 Q. When you stopped next to the curb, where
12 did the approximately four or at least four police
13 vehicles stop?

14 A. Behind me.

15 Q. I'm going to ask you, would you draw the
16 lanes of traffic and then show me where you came to
17 a stop and then identify where the police officers'
18 cars were?

19 MR. MONTOYA: Is this going to be Exhibit
20 1?

21 MS. LEVY: Yes.

22 (Note: Exhibit 1 marked for
23 identification.)

24 Q. You are marking that one Henry?

25 A. Yes..

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1 Q. Would you describe for me what you have
2 just drawn? Is this where you came to a parked
3 position?

4 A. I went from the center lane to the curb
5 and I stopped.

6 Q. Once you stopped, where were the police
7 vehicles?

8 A. They were behind me.

9 Q. The diagram you have just drawn,
10 Mr. Henry, trying to get a feel for this, would
11 place three police vehicles in one lane of traffic;
12 is that correct?

13 A. I'm not sure.

14 Q. None of the cars were pulled in front of
15 you?

16 A. No.

17 Q. None of them were to the side of you?

18 A. No.

19 Q. And you don't recall if they were all in
20 one lane or two lanes?

21 A. I know they were at least in the right
22 lane and one car was in the second lane.

23 Q. Would you agree that a lane of traffic
24 wouldn't permit three police cars to be in that
25 lane?

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1 A. They were not necessarily side by side.

2 Q. Is it your position you have no idea where
3 they were?

4 A. They were behind me.

5 Q. That's all you remember is they were
6 behind you?

7 A. Yes.

8 Q. Not whether they were in the same lane or
9 taking two lanes, anything of that nature?

10 A. No.

11 Q. You don't remember if they were parked one
12 behind the other?

13 A. No, I don't.

14 Q. Or side by side?

15 A. No, I don't.

16 Q. So you estimate you waited five minutes.
17 Did the police vehicles continue to have their
18 lights on the entire time?

19 A. Yes.

20 MR. MONTOYA: Let the record reflect that
21 attorney Judy Rosenstein has joined the deposition,
22 co-counsel for the plaintiff.

23 Q. When you got out of your vehicle, would
24 you describe for us exactly how you did that?

25 A. I opened the door. I stepped out and I

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1 looked back.

2 Q. When you looked back, were you looking
3 over your shoulder or had you turned around to face
4 the cars?

5 A. I think I was at about a 45-degree angle
6 looking back.

7 Q. How wide open was your door?

8 A. It was fully opened.

9 Q. So describe for me then, did you get
10 completely out of the vehicle and then look back?

11 A. Yes, I got completely out of the vehicle.
12 I was standing on the street.

13 Q. How were you dressed that day?

14 A. I had on jeans and a polo.

15 Q. Can you describe for me the color?

16 A. The jeans were blue. I'm not sure what
17 color the shirt was.

18 Q. Were you carrying a cap, anything like
19 that?

20 A. No.

21 Q. When you stepped out of the vehicle, where
22 were your hands located?

23 A. By my side.

24 Q. They weren't on the door in any way?

25 A. No.

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1 Q. Tell me what happened then. You were at a

2 45-degree angle and you looked back at the police
3 cars?

4 A. I looked back at the police cars. I saw
5 six weapons trained on me.

6 Q. Where did you see those weapons coming
7 from?

8 A. They were above the car door -- cars'
9 doors.

10 Q. Describe for me then how were the police
11 cars situated? Did everybody have a door open?

12 A. I don't know if everyone had a door open.

13 Q. What could you see? Why don't you
14 describe it in as much detail as you can.

15 A. I could see officers, at least one behind
16 one car, two on the other side of the other door of
17 the same car, and there were two additional officers
18 there.

19 Q. Where were the two additional officers?

20 A. I'm not sure if they were behind the same
21 car or a different car.

22 Q. Where was the car where the officers were?

23 A. It was behind me.

24 Q. Was it -- and you can't identify which of
25 these at least four vehicles it was?

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1 A. No.

2 Q. Had you seen the officers get out of their
3 vehicle --

4 A. No.

5 Q. -- while you were waiting?

6 A. No.

7 Q. What were you doing during the five
8 minutes that you were waiting?

9 A. I was sitting.

10 Q. Were you looking in your rear-view or
11 side-view mirror?

12 A. They had bright lights. I could not see.

13 Q. Were you attempting to see?

14 A. Yes.

15 Q. Did you ever turn around in your seat?

16 A. No.

17 Q. Everything was through the side mirror or
18 the rear-view mirror?

19 A. Yes.

20 Q. During the time you sat in the vehicle for
21 five minutes, where were your hands?

22 A. In my lap.

23 Q. And when you describe six weapons trained
24 on you, please describe what did you mean by that.

25 A. I saw at least one shotgun and at least

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1 five handguns.

2 Q. Now, how were you able to see at that
3 point if the bright lights were shining on you?

4 A. I was actually above the headlights of the
5 car.

6 Q. When you use the term "trained" on you,
7 what do you mean by that?

8 A. They were drawn and pointed.

9 Q. You say four of them were behind the doors
10 on one vehicle and you don't know where the other
11 two were; is that correct?

12 A. I don't know exactly where they were.

13 Q. And you said they might have been around
14 that same police car but you are not sure?

15 A. Yes.

16 Q. Were you able to see anything else from
17 the officers? What part of their bodies could you
18 see?

19 A. Just the heads. Just above the doors.

20 Q. Although this is not going to pick up on
21 the record and I understand that, would you show me
22 how the officers who had handguns had them pointed
23 at you?

24 A. (Indicating).

25 Q. You are using your right hand and showing

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1 that the officer had his or her hand underneath the
2 right hand and they were holding their weapons in
3 their right hands?

4 A. I'm not sure which hand they were holding
5 what in.

6 Q. And the shotgun?

7 A. To the best of my recollection it was
8 above the car door, resting on the car door.

9 Q. So it was definitely one of the ones that
10 was at the car where you saw the four weapons?

11 A. Yes.

12 Q. You don't remember which side, passenger
13 or driver's side?

14 A. No, I don't.

15 Q. What happened then?

16 A. I was ordered over the loud speaker to get
17 back into the car.

18 Q. Was it a male or female voice?

19 A. Male.

20 Q. Can you tell me as clearly as you can what
21 was said?

22 A. "Get back in the car."

23 Q. Those are the exact words?

24 A. Yes.

25 Q.. Was that instruction given once or more?

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1 A. Once.

2 Q. What did you do?

3 A. I immediately complied.

4 Q. Did you close the door to your vehicle at
5 that time?

6 A. I don't remember.

7 Q. What happened next?

8 A. I was ordered to throw -- turn the
9 ignition off.

10 Q. Had the ignition been running the whole
11 five minutes?

12 A. Yes.

13 Q. Is there a reason you didn't turn it off
14 when you stopped?

15 A. No.

16 Q. So the next order was to --

17 A. Toss my keys on to the hood of the car.

18 Q. So now we have essentially three orders,
19 correct? Get back in the car, turn off the
20 ignition, throw your keys; is that right?

21 A. Yes.

22 Q. Was your window up or down?

23 A. It was down.

24 Q. Had it been down the entire time that you
25 stopped?

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1 A. Yes.

2 Q. Was it down prior to your stopping?

3 A. No.

4 Q. When did you lower your window?

5 A. While I was waiting for them to come.

6 Q. Do you remember at what point you lowered
7 it?

8 A. When I pulled over.

9 Q. What did you do in response to the order
10 to toss the keys on the hood?

11 A. I tossed the keys on the hood.

12 Q. Which hand did you use?

13 A. My left.

14 Q. Are you right or left-handed?

15 A. Right.

16 Q. What happened then?

17 A. I was ordered to put my hands outside of
18 the car.

19 Q. Can you remember the exact instructions or
20 order that was given to you? The exact words?

21 A. No.

22 Q. What did you do in response to that order?

23 A. I put my hands outside the window.

24 Q. How did you do that?

25 A. Both hands outside the window.

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1 Q. And did you actually have to turn in your
2 seat?

3 A. Yes.

4 Q. And how did you extend your hands in the
5 sense of were the fingers spread?

6 A. My fingers -- I don't know if my fingers
7 were spread. My hands were outside of the window.

8 Q. Were these orders also given over the loud
9 speaker?

10 A. Yes.

11 Q. During the time you were receiving these
12 orders, did the officers move from their positions
13 at all?

14 A. I don't know.

15 Q. Were you watching in the side-view mirror?

16 A. I could no longer see.

17 Q. Because of the bright lights?

18 A. That's correct.

19 Q. What happened then?

20 A. I was ordered to step outside of the
21 vehicle.

22 Q. This required that you open the car door
23 again?

24 A. Yes. I told them I could not step outside
25 of the car without opening the door.

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1 Q. How did you convey that to them?
 2 A. I was yelling.
 3 Q. What did you say?
 4 A. I could not step outside of the car
 5 without opening the door.
 6 Q. What were your words? Obviously you
 7 didn't say "I couldn't" so did you say "I can't"?
 8 A. Right. "I can't step outside of the
 9 vehicle without putting my hands back inside the
 10 vehicle."
 11 Q. What happened then?
 12 A. There was a pause and I was told to open
 13 the door.
 14 Q. Did they tell you which hand to open the
 15 door with?
 16 A. I don't know.
 17 Q. During this entire time were your hands
 18 outside the window?
 19 A. Yes.
 20 Q. So how did you open the door, with your
 21 right or left hand?
 22 A. With my left hand.
 23 Q. Did you keep your hand outside -- the
 24 other hand outside the window?
 25 A. No.

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1 Q. So describe for me what you did.
 2 A. I received permission to put my hands back
 3 inside so I could unlock the door and open the door,
 4 which I did.
 5 Q. Did you convey to them that the door was
 6 locked?
 7 A. Yes.
 8 Q. Let's go through -- I want to know exactly
 9 what you were telling the police officers. So is
 10 the first thing you relayed to them that you can't
 11 open the door with your hands outside?
 12 A.. That's right.
 13 Q. What else did you say to the officers
 14 before you opened the door?
 15 A. I then told them that the door was locked.
 16 I had to unlock the door.
 17 Q. Did you say anything else before you
 18 received permission to unlock the door?
 19 A. Not to my recollection.
 20 Q. Do you recall specifically what the
 21 response was to your statement that you needed to
 22 put your hands down?
 23 A. No, I don't.
 24 Q. But you did receive some type of what you
 25 perceived to be permission over the loud speaker?

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1 A. I was granted permission to unlock the
 2 door and step out of the car.
 3 Q. How did you do that?
 4 A. I unlocked the door with my left hand.
 5 Q. Was it one of those locks that you do on
 6 the door?
 7 A. Yes, you just pull the lock up.
 8 Q. You actually have to pull the lock up?
 9 A. As I recall, yes..
 10 Q. What did you do then?
 11 A. I stepped out of the vehicle.
 12 Q. How did you do that?
 13 A. Just stepped back.
 14 Q. Did you open the door to the full extent?
 15 A. Yes, I did.
 16 Q. What did you do with your hands at that
 17 point?
 18 A. I stepped out of the car and my hands were
 19 in the air.
 20 Q. How were they in the air?
 21 A. (Indicating).
 22 Q. You are saying they were up about the
 23 height of your head and were the fingers extended?
 24 A. Yes.
 25 Q. Had you received an instruction to do that

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1 or did you just do that yourself?
 2 A. I think I received an instruction to do
 3 that.
 4 Q. At what point did you receive that
 5 instruction?
 6 A. When I was given permission to unlock the
 7 door.
 8 Q. So again, can you tell me what you recall
 9 the instruction being then?
 10 A. I was asked -- told -- to step out of the
 11 car with my hands up.
 12 Q.. Anything else?
 13 A. Not that I can recall.
 14 Q. When you got out of the car, did you
 15 immediately turn facing behind your car?
 16 A. No.
 17 Q. Which direction were you faced?
 18 A. I was actually parallel to the car. I
 19 just stepped out of the car.
 20 Q. What happened then?
 21 A. I was told to step away from the car into
 22 the middle of the lane. I was told to take my right
 23 hand and grab my shirt collar by the back and pull
 24 my shirt out of my pants.
 25 Q. To the best of your knowledge, were all

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1 these orders being given by the same officer?

2 A. I don't know.

3 Q. Is it you don't remember?

4 A. I don't know.

5 Q. Do you recall hearing a different voice
6 giving instruction to you?

7 A. I was too scared at that point to be able
8 to distinguish who was speaking.

9 Q. When you were given the order to put your
10 hand -- your right hand on your shirt collar, which
11 direction were you facing?

12 A. I was facing away from the police
13 officers.

14 Q. Completely or were you at a side?

15 A. Completely.

16 Q. So you were facing the front of your
17 vehicle?

18 A. Can you rephrase that?

19 Q. I am trying to determine which direction.
20 You said you were facing away from the officers, so
21 since the officers were behind your vehicle, I am
22 assuming you were facing the front?

23 A. My back was to the officers.

24 Q. So your face -- your direction was towards
25 the front of your vehicle, towards the hood?

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1 A. Yes.

2 Q. How close were you to your car when you
3 started to grab your shirt?

4 A. They had moved me away from my car into
5 the center of the lane.

6 Q. Was this the same lane of traffic that you
7 had just were parked in?

8 A. No. I think it was actually the center
9 lane of the three lanes.

10 Q. Did someone tell you to move that far?

11 A. Yes.

12 Q. So let's go back. When did they give you
13 that instruction?

14 A. They ordered me, after I got out of the
15 car, to move to the center of the lane. To the
16 center of the lane.

17 Q. And you understood that to be, of the
18 three lanes, that would be the center lane you were
19 told to go to?

20 A. Yes.

21 Q. In order to do that, you had to walk away
22 from your car, correct?

23 A. Yes.

24 Q. During that time you had your hands in the
25 air?

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1 A. Yes.

2 Q. And then were you told to face away from
3 the officers?

4 A. Yes.

5 Q. When did you receive that order? Was that
6 as you were walking?

7 A. Yes.

8 Q. Any other orders?

9 A. Not to the best of my recollection at that
10 point.

11 Q. So you walked to the center lane?

12 A. Yes.

13 Q. Your hands were in the air. Then you were
14 given this instruction about using your right hand
15 to put on your shirt collar?

16 A. Yes.

17 Q.. Would you tell me again what that order
18 was?

19 A. "Take your right hand, grab the back of
20 your shirt collar, and pull your shirt out of your
21 pants."

22 Q. Did you comply?

23 A. Yes.

24 Q. What happened then?

25 A. I was told to turn away.

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1 Q. What did you do?

2 A. I turned around.

3 Q. Were both hands in the air at that point?

4 A. No, one hand was holding my shirt collar.

5 Q. Were you holding it so the shirt would go
6 above your belt then?

7 A. Yes.

8 Q. What happened?

9 A. I was told to continue turning.

10 Q. And then what?

11 A. I was ordered to lie facedown on the
12 pavement.

13 Q. Tell me what order given to do that.

14 A. "Lie down on the pavement."

15 Q. Did they give you any directions as to how
16 you should accomplish that? Get on your knees?
17 Anything of that nature?

18 A. Not to my recollection.

19 Q. At this point had you said anything to the
20 police officers other than your earlier statement
21 that you couldn't unlock the door without putting
22 your hands down?

23 A. No.

24 Q. How did you accomplish getting on the
25 ground?

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1 A. I don't remember.
 2 Q. You have no recollection at all?
 3 A. I don't remember.
 4 Q. You just remember that you complied?
 5 A. Yes, I did.
 6 Q. Do you have any sense of whether you let
 7 go of your shirt collar or held on to your shirt
 8 collar as you got down?
 9 A. I don't remember.
 10 Q. What happened then?
 11 A. I was told to put my hands on the back of
 12 my head.
 13 Q. And would you describe for me, were you
 14 completely on the pavement at this point facedown?
 15 A. I was lying facedown on the pavement.
 16 Q. Before you received an order to put your
 17 hands behind your head; is that right?
 18 A. Yes.
 19 Q. Where were your hands?
 20 A. In front of me.
 21 Q. Can you show me how they were?
 22 A. Same position.
 23 Q. So they were on the ground at that point?
 24 A. I don't think they were actually resting
 25 on the ground.

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1 Q. Which direction was your face?
 2 A. I want to say across the lane.
 3 Q. Looking right or left?
 4 A. Looking left.
 5 Q. And your head would have been towards the
 6 direction of the police officers, correct?
 7 A. Yes.
 8 Q. Did your face actually touch the pavement
 9 or did you keep it up?
 10 A. I kept my face off the ground.
 11 Q. So what part of your body was touching the
 12 ground at this point?
 13 A. My chest, my stomach, my legs, my feet.
 14 Q. What happened then?
 15 A. A female policeman approached me. She put
 16 her knee in my back and she cuffed me.
 17 Q. Put her hand where?
 18 A. Her knee in my back and she cuffed me.
 19 Q. Where did she place her knee?
 20 A. In the small of my back.
 21 Q. Did she have to kneel to do that?
 22 A. Yes, she was down where I was.
 23 Q. Was she the only officer who approached
 24 you at that time?
 25 A. She was the only one I saw.

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1 Q. Tell me how she handcuffed you.
 2 A. To the best of my memory, she took my
 3 right hand, cuffed it first, and then my left hand.
 4 Q. And when she started to cuff you, your
 5 hands were -- were they interlocked?
 6 A. They were interlocked on the back of my
 7 head.
 8 Q. On the back --
 9 A. Back of my head.
 10 Q. Not your neck, your actual head, correct?
 11 A. Yes.
 12 Q. Is there anything about how she handcuffed
 13 you -- obviously, being handcuffed is
 14 uncomfortable -- that you considered that she was
 15 using excessive force at that point in time?
 16 A. I was too busy complying to know if
 17 anything else was going on.
 18 Q. So you offered no resistance?
 19 A. No.
 20 Q. So she took one hand, handcuffed it, and
 21 placed the other one?
 22 A. Yes.
 23 Q. Do you remember what kind of handcuffs she
 24 used?
 25 A. No.

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1 Q. Were they plastic or were they metal?
 2 A. They were metal.
 3 Q. What happened then?
 4 A. I was ordered up off the ground. I got
 5 up.
 6 Q. Who made that order?
 7 A. I don't know.
 8 Q. Was it over the loud speaker?
 9 A. No.
 10 Q. Was it the female officer?
 11 A. No.
 12 Q. Did the female officer say anything as she
 13 was handcuffing you?
 14 A. No.
 15 Q. Where was her weapon when she was
 16 handcuffing you?
 17 A. I don't know.
 18 Q. Did she pull or jerk your arms in any way?
 19 A. She pulled my arms to handcuff me.
 20 Q. So you were ordered to stand up?
 21 A. Yes.
 22 Q. What did you do then?
 23 A. I stood up.
 24 Q. Which direction were you facing at this
 25 time?

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1 A. I was facing across the lane. I just
2 stood straight up.
3 Q. I guess again, that was poorly asked.
4 Were you facing again towards where the police cars
5 were?

6 A. No.

7 Q. You were facing across the street or
8 towards your vehicle?

9 A. No, not towards my vehicle. The opposite
10 direction. My back was toward my vehicle.

11 Q. What happened then?

12 A. I was placed in a squad car, back of the
13 squad car.

14 Q. Could you tell which one of the squad cars
15 you were placed in?

16 A. I'm sorry, that was not correct. I was
17 searched.

18 Q. Who searched you?

19 A. She did.

20 Q. How did she search you?

21 A. She started at the top and patted me all
22 the way down.

23 Q. Where did she start at the top?

24 A. My chest area.

25 Q. Describe for me how she patted you down.

1 A. Can you rephrase?

2 Q. Well, describe to me what her actions
3 were.

4 A. She patted me down. The outside first,
5 then the inside.

6 Q. And the inside meaning --

7 A. Inside of my legs.

8 Q. Did she place her hands inside your
9 pockets at any time?

10 A. She grabbed my pockets and asked me what
11 was in them.

12 Q. What did she ask you?

13 A. What was in my pockets.

14 Q. Did she say anything else other than,
15 "What is in your pockets?"

16 A. No.

17 Q. Did she ask you if you had a weapon, any
18 sharp instruments, anything of that nature?

19 A.. No.

20 Q. The polo shirt you were wearing, did that
21 have a pocket on it?

22 A. No.

23 Q. So she patted on each pocket area down
24 your legs and then up your legs?

25 A. Correct.

1 Q. Did she touch your genital area at all?

2 A. Briefly.

3 Q. Again, that was the patdown technique?

4 A. Yes.

5 Q. The only question this officer had asked
6 you at that point is if you had anything in your
7 pockets?

8 A. She asked me what was in my pockets.

9 Q. Did you respond to that yes?

10 A. Yes, I did.

11 Q. What did you say?

12 A. I told her I had travel cards, business
13 cards.

14 Q. Anything else that you said to her?

15 A. No.

16 Q. What happened then?

17 A. She took the stuff out of my pocket.

18 Q. What did she take out of your pocket?

19 A. My business cards.

20 Q. Were those in any kind of a case?

21 A. No.

22 Q. Which pocket were they in?

23 A. My left.

24 Q. Left rear?

25 A. Left front.

1 Q. What else did she take out of your
2 pockets?

3 A. My money clip, my money.

4 Q. Where was your money clip?

5 A. My right front pocket.

6 Q. And you used the term "travel cards."
7 What did you mean by that?

8 A. Marriott, Hertz -- I'm sorry, not Hertz.
9 Marriott, airline cards, hotel cards.

10 Q. Were those in any kind of a case?

11 A. No.

12 Q. Which pocket were they in?

13 A. My left.

14 Q. Was there anything in your left pocket
15 besides cards?

16 A. No.

17 Q.. And then in your right front pocket you
18 had the money clip. Did you also have change in
19 there?

20 A. Yes.

21 Q. Anything else in that?

22 A. No.

23 Q. And she took all those items out?

24 A. Yes.

25 Q. Where did she place them?

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1 A. She threw them on the ground.
 2 Q. You used the term "threw." How did she do
 3 that?
 4 A. She threw them down.
 5 Q. How far did they land from you?
 6 A. I don't know.
 7 Q. Were they -- she didn't throw them across
 8 the lane of traffic?
 9 A. No.
 10 Q. They were in your general vicinity?
 11 A. Yes.
 12 Q.. Did you have anything in your other
 13 pockets, back pockets?
 14 A. No.
 15 Q. You don't carry a wallet?
 16 A. It was on the seat.
 17 Q. When did it get on the seat?
 18 A. When I left Wal-Mart.
 19 Q. Was there anything else on the seat?
 20 A. My rental contract and my cell phone.
 21 Q. What happened then?
 22 A. I was put in the backseat of the car.
 23 Q. At this point in time had they said
 24 anything else other than what you have already told
 25 me?

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1 A. I asked why was I being stopped.
 2 Q. Who did you ask that question to?
 3 A. To the officers.
 4 Q. To all of them or to the female officer?
 5 A. All of them.
 6 Q. How did you do that? Were you yelling so
 7 they could hear you?
 8 A. No.
 9 Q. How far away were the other officers from
 10 you?
 11 A. Within ten feet.
 12 Q. Were you able to tell how many officers
 13 there were?
 14 A. There were six.
 15 Q. And during the time that you were being
 16 cuffed, were you able to tell -- I guess you were
 17 facing away from the officers so you don't know if
 18 they had their weapons still pointed at you?
 19 A. I was not facing away from the officers.
 20 I was at a 90-degree angle to them.
 21 Q. Were you able to tell what the officers
 22 were doing?
 23 A. Until I was cuffed they all had weapons
 24 drawn.
 25 Q. And then once you were cuffed and standing

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1 up, did they reholster their weapons?
 2 A. No.
 3 Q. Did there come a time they reholstered
 4 their weapons?
 5 A. Yes, later.
 6 Q. When?
 7 A. After they were sure that there was no one
 8 else in the car.
 9 Q. So how were you placed in the patrol car?
 10 Did the female officer escort you back to the car?
 11 A. She put me in the car.
 12 Q. How did she walk you back to the car?
 13 A. She had me by my arm.
 14 Q. How?
 15 A. (Indicating).
 16 Q. For the record, you are showing she had
 17 her right hand on your left upper arm?
 18 A. I cannot say that.
 19 Q. Why not?
 20 A. Because she could have had her left hand
 21 on my right arm.
 22 Q. You don't recall?
 23 A. I don't recall which arm it was.
 24 Q. Do you recall her only having one hand on
 25 whichever arm it was?

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1 A. Yes.
 2 Q. And was there any force used at that point
 3 in time?
 4 A. I was placed into the car physically.
 5 Q. How?
 6 A. She pushed me down and then into the car.
 7 Q. How tall are you?
 8 A. Six feet.
 9 Q. How much did you weigh at that time?
 10 A. Approximately 240.
 11 Q. Is that approximately what you weigh now?
 12 A. Yes.
 13 Q. How large was this officer?
 14 A. She was not very large.
 15 Q. So when you say she pushed you down,
 16 how -- did she have her hand on top of your head?
 17 A. She had her hand on my shoulder.
 18 Q. So she pushed you into a downward motion?
 19 A. That's correct.
 20 Q. Can you estimate for me how big she was?
 21 You said not very big but height-wise?
 22 A. Maybe five five.
 23 Q. What was her build?
 24 A. I don't remember.
 25 Q.. Do you remember anything about the officer

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1 at all, the female officer?

2 A. She was blond.

3 Q. Anything else? Long hair, short hair,

4 ponytail?

5 A. I don't.

6 Q. Did she open the car door?

7 A. I don't know.

8 Q. You don't recall?

9 A. I don't recall.

10 Q. And then she pushed you down and into the

11 vehicle?

12 A. That's correct.

13 Q. Did you consider that forceful or

14 aggressive?

15 A. Yes, it was.

16 Q. Can you describe for me what it was that

17 you considered forceful or aggressive?

18 A. The amount of physical force used to

19 actually carry out the action. She could have asked

20 me to step into the car instead..

21 Q. So it's the fact that she actually had

22 hands on you when she put you in the car that you

23 consider force?

24 A. She used physical force.

25 Q. What physical force?

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1 A. She used her hands to guide what I was

2 doing.

3 Q. Describe for me exactly what she did. You

4 said she had a hand on your shoulder?

5 A. Yes. She pushed me so that I was into

6 more of a squatting position so I could fit into the

7 car.

8 Q. Anything else?

9 A. She pushed me -- literally pushed me into

10 the car.

11 Q. How did she do that?

12 A. I am now down level to the entry of the

13 car and she pushed me into the car.

14 Q. With both hands?

15 A. I don't recall if it was both hands or

16 not.

17 Q. Did that cause you to fall on the seat or

18 anything of that nature?

19 A. I was initially lying across the back

20 seat, yes.

21 Q. And that was as a result of her push?

22 A. That's correct.

23 Q. And you say she could have asked you to

24 get in the car?

25 A. Yes.

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1 Q. Were you in the physical act of getting in

2 the car? You knew she wanted you in the backseat,

3 right?

4 A. I'm sorry?

5 Q. Were you physically complying to get in

6 the backseat of the car? In other words, you were

7 bending your knees, something like that?

8 A. Show never asked me to get into the

9 backseat. She just pushed me where she wanted me to

10 go.

11 Q. You understood you were going to get in

12 the backseat of the car, right?

13 A. Yes.

14 Q. Would you agree with me that you were

15 bending down to get in the backseat of the car?

16 A. I was forced to bend down.

17 Q. By her having her hand on your shoulder?

18 A. And pushing me down.

19 Q. Describe for me how she pushed you. I

20 mean, she had one hand on your shoulder and she had

21 the other hand where?

22 A. I don't know where her other hand was.

23 One hand was on my shoulder applying downward

24 pressure.

25 Q. Did she have to reach up to do that?

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1 A. Yes.

2 Q. At this point in time what were the other

3 officers doing?

4 A. They were in the vicinity still with their

5 guns trained on the vehicle that I had gotten out

6 of.

7 Q. Did they leave their position of being

8 behind the doors at that point?

9 A. I don't know.

10 Q. You can't recall?

11 A. I can't recall.

12 Q. So the only person who has put hands on

13 you up to this point of getting into the backseat of

14 the car is the female officer?

15 A. That's correct.

16 Q. Did she say anything to you other than

17 "What do you have in your pockets?"

18 A. When I asked her why I was stopped she

19 told me to shut up.

20 Q. Where were you when she told you that?

21 A. I was standing.

22 Q. This is before you were handcuffed or

23 after you were handcuffed?

24 A. After I was handcuffed.

25 Q. But before you were escorted to the car?

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1 A. That's correct.
 2 Q. That's all she said was shut up?
 3 A. That's correct.
 4 Q. Then you are in the car. Had anybody said
 5 anything to you besides her saying shut up until you
 6 were in the car?
 7 A. No.
 8 Q. Did you say anything to the officers?
 9 A. I asked why was I being stopped.
 10 Q. This is your second time to ask it?
 11 A. Yes.
 12 Q. Where were you when you asked it the
 13 second time?
 14 A. In the backseat of the car.
 15 Q. Who did you ask the question of?
 16 A. To the female.
 17 Q. What did she say at this point?
 18 A. Shut up.
 19 Q. Same thing?
 20 A. Yes.
 21 Q. What happened then?
 22 A. They were then focused on getting the
 23 other individual out of the car.
 24 Q. Was there another individual in the car?
 25 A. No.

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1 Q. Describe for me what the officers did?
 2 A. They ordered whoever was in the car to get
 3 out over the loud speaker.
 4 Q. What was the order that they gave?
 5 A. To get out of the car.
 6 Q. That's it?
 7 A. Yes.
 8 Q. Just "get out of the car?" Did she say,
 9 "If you are in there get out of the car" or anything
 10 like that?
 11 A. The terminology, I'm not sure of.
 12 Q. Where was the female officer when this was
 13 taking place?
 14 A. I don't know.
 15 Q. Did she leave you?
 16 A. I was in the backseat of the car with the
 17 doors closed.
 18 Q. She closed the door?
 19 A. Yes.
 20 Q. Do you remember if the window was up or
 21 down?
 22 A. It was up.
 23 Q. And also the front windows of the car,
 24 were they also up?
 25 A. I don't remember.

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1 Q. Do you remember which side of the vehicle
 2 you were on, the passenger or the driver's?
 3 A. No, I don't.
 4 Q. Did the female officer stay next to the
 5 vehicle?
 6 A. I don't know what she did.
 7 Q. What were you seeing at this point?
 8 A. I wasn't. I was in the backseat of the
 9 car. I was initially lying down.
 10 Q. Did you --
 11 A. I eventually righted myself.
 12 Q. In the back of this patrol car, was it a
 13 plastic seat?
 14 A. I don't know.
 15 Q. Do you remember if it was a marked
 16 vehicle?
 17 A. Yes.
 18 Q. Did it have the lights on?
 19 A. Yes.
 20 Q. Even as you were sitting in it?
 21 A. Yes.
 22 Q. Did the officers' lights continue to be on
 23 the whole time you continued to be in the back of
 24 the car?
 25 A. No.

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1 Q. When did the lights -- by lights obviously
 2 I am referring to the emergency equipment on the top
 3 of the vehicles that you described.
 4 A. Shortly before they released me.
 5 Q. So you were able to hear, though, that
 6 there was an instruction given to somebody in the
 7 car to get out of the vehicle?
 8 A. It was given over the loud speaker.
 9 Q. How many times was that order given?
 10 A. Several.
 11 Q. Is that more than two?
 12 A. Yes.
 13 Q. More than five?
 14 A. I don't think so.
 15 Q. Could you tell if it was the same voice
 16 that had given you instructions?
 17 A. I don't know.
 18 Q. Was it a male voice?
 19 A. Yes.
 20 Q. What happened then?
 21 A. He eventually -- they figured out no one
 22 else was in the car.
 23 Q. How did you come to that realization?
 24 A. They approached the car.
 25 Q. How did they approach it?

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1 A. I don't know.

2 Q. Could you see outside the vehicle that you

3 were seated in?

4 A. Yes.

5 Q. Could you see the officers?

6 A. No.

7 Q. You can't remember the placement of any of

8 the patrol cars, correct? Other than the fact that

9 they were somewhere behind where you parked your

10 car?

11 A. That's correct.

12 Q. So did you not have a line of sight to

13 your car then?

14 A. Not from where I was, no.

15 Q. Were there other police cars in front of

16 the one you were seated in?

17 A. I think so.

18 Q. But in any event, you could not see how

19 the officers approached the Charger you had rented?

20 A. No, I couldn't.

21 Q. Could you hear any more instructions after

22 the PA instruction to get out of the car?

23 A. No.

24 Q. What did you next see?

25 A. Officer Storey came back to the car,

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1 because I think I was in his squad car.

2 Q. Of course, you didn't know who he was at

3 the time?

4 A. No.

5 Q. Did you know where he was coming from?

6 A. No.

7 Q. So you don't know if he actually came from

8 another squad car or from the vehicle that you had

9 rented, correct?

10 A. Yes.

11 Q. What happened then?

12 A. I'm sorry. Can I have a one-minute break?

13 Absolutely.

14 (Note: The deposition stood in recess at

15 10:45 to 10:55.)

16 Q (By Ms. Levy) Where we stopped off is you

17 were aware that the officers had gone to your car,

18 correct? But you couldn't see anything specific?

19 A. Yes.

20 Q. And then Officer Storey approached you?

21 A. Yes.

22 Q. I think we said you don't know which

23 direction he came from, correct?

24 A. No, I don't.

25 Q. Please tell me what Mr. Storey did --

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1 Officer Storey, excuse me.

2 A. I asked him why was I being stopped.

3 Q. Now, I need you to tell me in as much

4 detail as you can how he came up to you, because you

5 are inside the back of the car with the window up,

6 correct?

7 A. Yes..

8 Q. How did he make contact with you?

9 A. To my recollection he got inside the

10 vehicle.

11 MR. MONTROYA: A little bit louder.

12 A. To my recollection he got inside the

13 vehicle.

14 Q. Where did he get into the vehicle?

15 A. The driver's seat.

16 Q. And did this car have the plexiglass

17 between the passenger and -- excuse me, between the

18 driver and anyone in the backseat?

19 A. I don't remember.

20 Q. You don't remember -- do you remember any

21 kind of barrier between you and the front seat?

22 A. I don't remember.

23 Q. When he got into the car, did he turn

24 around? Turn his body around to talk to you?

25 A. Yes.

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1 Q. Did he close his door when he got in?

2 A. I don't know.

3 Q. You don't recall?

4 A. I don't recall..

5 Q. So what did Officer Storey say to you?

6 A. I asked him why was I being stopped.

7 Q. So you initiated the conversation?

8 A. Yes.

9 Q. Was the dome light on, do you remember?

10 A. No, I don't.

11 Q. What did he respond to your question?

12 A. He told me I knew why I was being stopped.

13 Q. Can you describe the tone of voice he

14 used?

15 A. Very forceful.

16 Q. Was his voice raised?

17 A. A little.

18 Q. Can you describe anything else about his

19 voice?

20 A. No.

21 Q. It was forceful?

22 A. It was forceful.

23 Q. And those were his exact words, "You know

24 why you are being stopped"?

25 A. Yes.

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1 Q. What happened then?

2 A. I said I did not.

3 Q. What was your tone of voice?

4 A. Calm.

5 Q. How were you feeling at this point?

6 A. Scared..

7 Q. Anything else?

8 A. Humiliated.

9 Q. Anything else?

10 A. Not to my recollection.

11 Q. Continue, please.

12 A. Where did we stop?

13 Q. That you had just responded to the officer

14 that you did not know why you were stopped.

15 A. He told me I had stolen the car..

16 Q. And if you would, please tell me the exact

17 words he used, if you can recall.

18 A. To the best of my memory, he told me I had

19 stolen the car.

20 Q. So he said, "You stole the car"?

21 A. "You know you stole the car."

22 Q. Did he use the same voice he had used with

23 the first response?

24 A. Yes.

25 Q. Nothing changed?

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1 A. No.

2 Q. And he didn't have a weapon drawn at this

3 point?

4 A. No.

5 Q. Please continue.

6 A. I asked him to look at my rental contract

7 which was on the front seat of my car.

8 Q. What happened then?

9 A. I was told my contract was fake.

10 Q. Can you tell me the words he used, sir? I

11 am just trying -- what I would like is as best you

12 can recall what are the words to you, not

13 paraphrasing.

14 A. "The contract is fake."

15 Q. What happened then?

16 A. I think he got out of the car.

17 Q. Please continue. Just tell me what

18 happened, if you would. We can do this in a little

19 more narrative.

20 A. To the best of my memory, he got out of

21 the car and they conferred, the other officers.

22 Q. Could you see them conferring?

23 A. I could see them talking.

24 Q. How many officers could you see talking?

25 A. There were six there.

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1 Q. So all six of them were talking?

2 A. I'm not sure.

3 Q. So were you able to determine how many

4 officers were talking with Officer Storey?

5 A. No.

6 Q. Was the female officer with him?

7 A. I don't recall.

8 Q. Where was this conference taking place?

9 A. Outside the vehicle.

10 Q. I understand that. Was it taking place

11 towards the driver's side, in the front or the back

12 of the car?

13 A. It was outside the driver's side towards

14 the front.

15 Q. And were you able to see anyone at all?

16 Were you even able to see Officer Storey?

17 A. No, I could not.

18 Q. You could not identify them?

19 A. No.

20 Q. So how did you know where they were

21 located?

22 A. I could hear the voices.

23 Q. Had he closed his door when he got out of

24 the car?

25 A. Not to my recollection.

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1 Q. Please continue.

2 A. Chronologically, I'm not sure what

3 happened next, but at some point a couple of the

4 officers left.

5 Q. All right. During this whole time you are

6 seated in the back of the car handcuffed behind you?

7 A. That's correct. At one point I told them

8 the handcuff was too tight.

9 Q. Who did you tell that to?

10 A. It was the female officer.

11 Q. Where was she that you could relay this to

12 her?

13 A. She was near the car.

14 Q. Was your window still up?

15 A. I don't think so. No, I don't think -- to

16 my recollection it was not up at that point.

17 Q. When did your window go down?

18 A. I don't remember.

19 Q. You do recall it being up when she first

20 placed you in the car, though, correct?

21 A. Yes.

22 Q. So at some point the window is lowered?

23 A. Yes.

24 Q. And where is the female officer when you

25 make this inquiry of her or you tell her?

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1 A. She was outside the door.
 2 Q. Immediately outside the door?
 3 A. Yes.
 4 Q. Next to it?
 5 A. Yes.
 6 Q. What did she say in response?
 7 A. "Good, they are supposed to hurt."
 8 Q. Those are her exact words?
 9 A. Yes.
 10 Q. What tone of voice did she use?
 11 A. Very demeaning.
 12 Q. How do you mean demeaning?
 13 A. She was speaking down to me.
 14 Q. Did she raise her voice?
 15 A. Somewhat.
 16 Q. Was she yelling?
 17 A. No.
 18 Q. When had you decided that they were too
 19 tight?
 20 MR. MONTOYA: Objection, argumentative.
 21 You may answer.
 22 A. They were hurting my wrist.
 23 Q. I understand that. At what point did you
 24 begin to feel that they were hurting your wrist?
 25 A. I don't recall.

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1 Q. It was after you were seated in the patrol
 2 car?
 3 A. Yes.
 4 Q. And you don't have any idea how long? Was
 5 it after the officers were in that conference?
 6 A. No.
 7 Q. So before that time?
 8 A. Yes.
 9 Q. Was it before Officer Storey got in the
 10 car?
 11 A. No.
 12 Q. So it was after he left the car that you
 13 felt they were too tight?
 14 A. He may have still been in the car.
 15 Q. But you didn't express to him that they
 16 were too tight?
 17 A. He heard me ask.
 18 Q. Well, I am asking when he was in the car
 19 seated talking to you, you didn't express that the
 20 handcuffs were too tight?
 21 A. I stated that the handcuffs were too
 22 tight.
 23 Q. Two --
 24 A. They were both there. She responded.
 25 Q. There was a point in time when Officer

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1 Storey is in the car with you, correct?
 2 A. Yes.
 3 Q. And then he got out of the car.
 4 A. Yes.
 5 Q. At what point did you say to the female
 6 officer that the cuffs were too tight?
 7 A. When she was standing beside the car.
 8 Q. While Officer Storey was still in the car
 9 for the first time; is that right? Or later?
 10 A. To the best of my recollection it was when
 11 he was in the car the first time.
 12 Q. So was she able to hear -- do you know,
 13 based on your knowledge, that she was able to hear
 14 the conversation you were having with Officer
 15 Storey?
 16 A. Yes.
 17 Q. Did she participate in that conversation
 18 at all?
 19 A. No.
 20 Q.. Why did you ask the female officer or tell
 21 her that the cuffs were too tight instead of Officer
 22 Storey?
 23 A. I didn't tell her specifically. I told
 24 both of them and she responded.
 25 Q. And she said, "Good, they are supposed to

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1 hurt"?
 2 A. Yes.
 3 Q. What happened then?
 4 A. Someone got my rental agreement out of my
 5 car along with my wallet.
 6 Q. How did you know this?
 7 A. Because I saw my wallet..
 8 Q. Where did you see your wallet?
 9 A. I think Officer Storey had it.
 10 Q. Is this after his conference or when he
 11 was talking to you in the car?
 12 A. This is before the conference.
 13 Q. This is when he was talking to you in the
 14 car then?
 15 A. Yes.
 16 Q. Did someone bring it over to him?
 17 A. Yes.
 18 Q. And, sir, we are going to have to keep
 19 going back. So if you can give me as much detail as
 20 you can when these things happen we will move this
 21 along. He is in the car with you and someone brings
 22 over your wallet and contract?
 23 A. Yes.
 24 Q. Do they hand them to the officer?
 25 A. Yes.

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1 Q. Again, do you remember if the car door is
2 open or closed?
3 A. I think his car door was open.
4 Q. What happened when they handed him the
5 contract and the wallet?
6 A. That's when he told me my contract was
7 fake.
8 Q. Did you see him look at it?
9 A. No..
10 Q. What did you see?
11 A. I was in the backseat. I cannot see a
12 lot.
13 Q. Did he have any discussion with the
14 officer who brought him the contract and the wallet?
15 A. No.
16 Q. When he got the actual contract in his
17 hand and the wallet, is this when he told you that
18 the contract was fake?
19 A. Yes.
20 Q. And you couldn't hear any conference or
21 any discussion he was having with other police
22 officers at that point?
23 A. No.
24 Q. If any? Is there anything else that
25 happened then until you said that the handcuffs were

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1 too tight?
2 A. Not that I can remember.
3 Q. After you said the handcuffs were too
4 tight and the officer responded, "Good, they are
5 supposed to hurt," what happened then?
6 A. I was sitting in the back of the car.
7 Q. Continue, please.
8 A. He left.
9 Q. Officer Storey left?
10 A. Yes.
11 Q. And he went to the conference?
12 A. Yes.
13 Q. Where did the female officer go?
14 A. I don't know.
15 Q. Did she stay next to the car?
16 A. Not that I can remember.
17 Q. Again, your window is down at this point?
18 A. The window on the driver's side is down.
19 Q. Well, the window next to where you are
20 seated is down, too, isn't it?
21 A. Yes, that's what I meant. The window on
22 the driver's side is down.
23 Q. In the backseat?
24 A. Yes.
25 Q. Thank you. Then tell me what happened

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1 next.
2 A. This meeting/conference went on for a
3 while.
4 Q. Can you estimate for me how long?
5 A. Fifteen, 20 minutes maybe.
6 Q. Okay. And then you said some officers
7 left? Do you have any idea how many?
8 A. No, I don't.
9 Q. Could you hear anything of this
10 conference?
11 A. No.
12 Q. Were any questions asked of you?
13 A. No.
14 Q. What happened then?
15 A. Officer Storey came back to the car.
16 Q. The second time?
17 A. Yes.
18 Q. What did he do?
19 A. He said that they were trying to contact
20 Hertz.
21 Q. Anything else?
22 A. No.
23 Q. What tone of voice did he use?
24 A. He was -- it was a much lighter voice now.
25 Q. Did he actually get in the car the second

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1 time?
2 A. Not to my recollection.
3 Q. What happened then?
4 A. We waited.
5 Q. How long did you wait?
6 A. Approximately 15 minutes.
7 Q. So at this point in time from the time you
8 first parked your car until he came back to the car,
9 how much time had elapsed?
10 A. Approximately an hour.
11 Q. Does that include this 15-minute waiting
12 time after he said they were trying to contact
13 Hertz? Or are we now at an hour and 15 minutes?
14 A. Approximately.
15 Q. Approximately what, an hour or an hour and
16 15 minutes?
17 A. It was approximately an hour.
18 Q. All together?
19 A. I don't know.
20 Q. Then while you waited, did anyone have any
21 contact with you?
22 A. No.
23 Q. Could you hear any conversation or see any
24 of the officers?
25 A. No.

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1 Q. During either of the times that Officer
2 Storey got into the patrol car, did you ever see him
3 get on his in-car computer?

4 A. I wasn't paying attention.

5 Q. So what happened then?

6 A. After waiting about 15, 20 minutes and he
7 had not gotten a response, I asked him to take my
8 Hertz rental car card out of my wallet and to call
9 the 800 number.

10 Q. Was he standing near enough that you could
11 just say that?

12 A. Yes.

13 Q. Where was he standing?

14 A. He was either beside the car or in the
15 car.

16 Q. What response, if any, did he make to you?

17 A. He eventually took my card out of my
18 wallet.

19 Q. Where was your wallet?

20 A. He had it at that point.

21 Q. In his hand or in the car?

22 A. I don't know.

23 Q. And again, you don't know or you don't
24 remember?

25 A. I don't remember.

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1 Q. So did he respond in any way to you other
2 than to take the card out?

3 A. No.

4 Q. What happened then?

5 A. At some point he actually called Hertz.

6 Q. Were you able to see him or hear him do
7 that?

8 A. No.

9 Q. How do you know he called Hertz?

10 A. He eventually decided to let me go, that
11 Hertz had verified that my rental contract was
12 valid.

13 Q. So when you understood that he took the
14 Hertz card out, was there any more conversation
15 before he let you go? Or any contact with any of
16 the officers on the scene?

17 A. No, I was in the backseat.

18 Q. No one was talking to you?

19 A. No.

20 Q. Did you say anything else to the officers?

21 A. I probably did but I can't remember.

22 Q. Did any of the officers say anything else
23 to you other than what you told me?

24 A. They probably did, but I can't remember.

25 Q. And the only time you said your handcuffs

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1 were too tight was that one time, correct?

2 A. Yes.

3 Q. So tell me what happened. I mean, you
4 said you told him to take the card out. What was
5 the next thing that happened that you can recall?

6 A. He opened the back door of the car, helped
7 me to get out of the car and took my handcuffs off.

8 Q. This is Officer Storey?

9 A. Yes.

10 Q. Any other officers assisting him?

11 A. No.

12 Q. How did he do that? What was his
13 demeanor?

14 A. Very nice.

15 Q. Did he say anything to you?

16 A. That he had verified with Hertz that my
17 contract was valid.

18 Q. Anything else?

19 A. No.

20 Q. Did you say anything to him?

21 A. Yes.

22 Q. What did you say?

23 A. I asked him why did he stop me.

24 Q. What did he respond?

25 A. He was just doing his job.

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